

TEXAS WORKFORCE COMMISSION LETTER

ID/No:	WD 08-08
Date:	April 29, 2008
Keyword:	Child Care; FSE&T; Project RIO; TANF/Choices; WIA
Effective:	Immediately

To: Local Workforce Development Board Executive Directors
Commission Executive Offices
Integrated Service Area Managers



From: Laurence M. Jones, Director, Workforce Development Division

Subject: **Implementation of the New Integrated Complaints, Hearings, and Appeals Rules**

PURPOSE:

This WD Letter provides Local Workforce Development Boards (Boards) with information and guidance on implementing the Texas Workforce Commission's (Commission) new Chapter 823, Integrated Complaints, Hearings, and Appeals rules.

BACKGROUND:

On November 6, 2007, the Commission adopted new Chapter 823, Integrated Complaints, Hearings, and Appeals rules. The new rules went into effect November 26, 2007, and may be accessed at:

<http://www.twc.state.tx.us/twcinfo/rules/20072008/07adpch823r.pdf>.

The purpose of new Chapter 823 is to establish uniform procedures and time frames for complaints and appeals processes for all Board-administered workforce services.

Texas Labor Code §302.065 requires the Commission to integrate the administration of four federal block grant programs with the goal of streamlining the delivery of services provided in Texas Workforce Centers. These programs include child care, Temporary Assistance for Needy Families (TANF), Food Stamp Employment and Training (FSE&T), and the Workforce Investment Act (WIA). In addition, the Commission expanded this integration to include all Board-administered workforce services.

To maintain uniformity and consistency across all Board-administered workforce services in protecting due process rights, the new Chapter 823 rules require Boards

to establish local policy to ensure that Texas Workforce Center customers are notified in writing of any adverse action and are provided with information on their appeal rights and their right to file a complaint regarding workforce services. Failure to inform customers of these rights risks violating due process principles.

New Chapter 823 specifically applies to complaints and determinations related to federal- or state-funded workforce services administered by the Boards. These services include:

- child care;
- TANF Choices;
- FSE&T;
- Project Reintegration of Offenders (Project RIO);
- WIA Adult, Dislocated Worker, and Youth; and
- Eligible Training Providers (ETP) receiving WIA funds or other funds for training services.

Commission rules previously governing complaints, hearings, and appeals for federal- or state-funded workforce services were repealed at the time new Chapter 823 became effective. Repealed rules included:

- Child Care Services Rules: 40 TAC §809.71 and Subchapter G
- Choices Rules: 40 TAC §811.71, §811.73, and Subchapter F
- FSE&T Rules: 40 TAC §813.51 and §813.52
- WIA Rules: 40 TAC §841.48, §841.49, Subchapter D, §§841.91–93, §841.95 and §841.96

To assist Boards with the implementation of these rules, support will be provided for the development of Board processes, including clarification and guidance on:

- federal- and state-funded workforce services administered by the Commission or the Board;
- definitions;
- Board timeliness;
- representation;
- Board-level complaints;
- determinations;
- Board informal resolution procedures;
- Board hearings; and
- Board policies for resolving complaints and appeals of determinations.

PROCEDURES:

Boards must ensure that appropriate staff is aware of and adheres to the requirements, procedures, and time frames set forth in new Chapter 823, Integrated Complaints, Hearings, and Appeals, and in this WD Letter. NLF

Boards must develop and approve local written policies* under new Chapter 823 rules by June 30, 2008. NLF

*As required by Commission rule §801.51(f) and as detailed in WD Letter 10-07, Board members must take such actions in an open meeting.

While the new Chapter 823 rules incorporate and include the responsibilities of both the Commission and the Boards, this WD letter only applies to complaints and appeals processes for Board-administered workforce services. Boards may use any of the Commission hearing procedures in Chapter 823, Subchapter C, Agency Complaint and Appeal Procedures, when establishing Board policy.

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Boards must develop written policies to:

NLF

- handle complaints and appeals;
- provide the opportunity for informal resolution; and
- conduct hearings for:
 - Texas Workforce Center customers;
 - eligible training providers; and
 - other persons affected by the Texas workforce system.

The following attachments to this WD Letter provide Boards with clarification and guidance when developing Board policy:

- Chapter 823: Integrated Complaints, Hearings, and Appeals Matrix (Attachment 1);
- Sample Written Determination (Attachment 2);
- Sample Customer Rights and Complaint Resolution Procedures and Customer Complaint Form (Attachment 3);
- Sample Complaint Log (Attachment 4); and
- Sample Notice of Board Hearing and Hearing Guidelines (Attachment 5).

INQUIRIES:

Direct inquiries regarding this WD Letter to wfpolicy.clarifications@twc.state.tx.us.

RESCISSIONS:

None

ATTACHMENTS:

- Attachment 1: Chapter 823: Integrated Complaints, Hearings, and Appeals Matrix
- Attachment 2: Sample Written Determination (English and Spanish versions)
- Attachment 3: Sample Customer Rights and Complaint Resolution Procedures and Customer Complaint Form (English and Spanish versions)
- Attachment 4: Sample Complaint Log
- Attachment 5: Sample Notice of Board Hearing and Hearing Guidelines (English and Spanish versions)

REFERENCE:

Texas Labor Code §302.065

Texas Workforce Commission Integrated Complaints, Hearings, and Appeals Rules: 40 TAC, Chapter 823
Texas Workforce Commission Child Care Services Rules: 40 TAC, Chapter 809
Texas Workforce Commission Choices Rules: 40 TAC, Chapter 811
Texas Workforce Commission Food Stamp Employment and Training Rules: 40 TAC, Chapter 813
Texas Workforce Commission Local Workforce Development Boards Rules: 40 TAC, §801.51(f)
Texas Workforce Commission Project RIO Rules: 40 TAC, Chapter 847
Texas Workforce Commission Workforce Investment Act Rules: 40 TAC, Chapter 841
WD Letter 10-07, issued February 2, 2007, and entitled “Adoption of Local Workforce Development Board Polices in Open Meetings”

FLEXIBILITY RATINGS:

No Local Flexibility (NLF): This rating indicates that Boards must comply with the federal and state laws, rules, policies, and required procedures set forth in this WD Letter and have no local flexibility in determining whether and/or how to comply. All information with an NLF rating is indicated by “must” or “shall.”

Local Flexibility (LF): This rating indicates that Boards have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this WD Letter. All information with an LF rating is indicated by “may” or “recommend.”